

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA**

In re: Genentech, Inc., Herceptin
(Trastuzumab) Marketing and Sales
Practices Litigation

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MDL Docket No. 16-MD-2700
Document Relates to:
All Cases

**JOINT SUBMISSION OF FORMS OF
SHORT FORM COMPLAINT AND SUPPLEMENT TO MASTER COMPLAINT**

As contemplated by paragraph III (1) of Case Management Order #6, which the parties jointly submitted on November 12, 2020 for Court approval, Plaintiffs and Defendant Genentech, Inc. hereby file and submit the attached, agreed template forms of *Short Form Complaint* and related *Supplement to Master Complaint*. The *Short Form Complaint* is an abbreviated form that any individual Plaintiff may complete, adopting the factual allegations set forth in the *Master Complaint* (Dkt. #440) filed on November 12, 2020, adopting any or all causes of actions in the *Master Complaint*, and identifying any case-specific causes of action or class allegations. The *Supplement to Master Complaint* is the form any individual Plaintiff may complete and attach to its *Short Form Complaint*, if appropriate, in accordance with paragraph 7 of the Short Form Complaint.

Respectfully submitted,

/s/ David L. Bryant

David L. Bryant, OBA #1262
Steven J. Adams, OBA #142
Amelia A. Fogleman, OBA #16221
Adam C. Doverspike, OBA #22548
James Wesley Scott Pebsworth, OBA #30900
GABLEGOTWALS
1100 ONEOK PLAZA
100 West 5th Street, Suite 1100
Tulsa, Oklahoma 74103
Telephone (918) 595-4800
Facsimile (918) 595-4990
dbryant@gablelaw.com
sadams@gablelaw.com
afogleman@gablelaw.com
adoverspike@gablelaw.com
wpebsworth@gablelaw.com

MDL Lead Counsel for Plaintiffs

/s/ William W. O'Connor

William W. O'Connor, OBA #13200
HALL, ESTILL, HARDWICK, GABLE, GOLDEN & NELSON, P.C.
320 South Boston Avenue, Suite 200
Tulsa, Oklahoma 74103
Telephone: (918) 594-0400
Facsimile: (918) 594-0505
Email: boconnor@hallestill.com

Alicia J. Donahue, Bar No. 117412
(admitted pro hac vice)
SHOOK, HARDY & BACON LLP
One Montgomery, Suite 2700
San Francisco, CA 94104
Telephone: (415) 544-1900
Facsimile: (415) 391-0281
Email: adonahue@shb.com

Paul Schmidt, N.Y. Bar No. 4001962
(admitted pro hac vice)
COVINGTON & BURLING LLP
620 Eighth Avenue
New York, NY 10018-1405
Telephone: (212) 841-1171
Facsimile: (646) 441-9171
Email: pschmidt@cov.com

Emily Ullman, D.C. Bar No. 1001677
(admitted pro hac vice)
COVINGTON & BURLING LLP
One CityCenter 850 Tenth Street, NW
Washington, DC 20001-4956
Telephone: (202) 662-5662
Facsimile: (202) 778-5662
Email: eullman@cov.com

Megan Rodgers, Cal. Bar No. 310344
(admitted pro hac vice)
COVINGTON & BURLING LLP
3000 El Camino Real
5 Palo Alto Square, 10th Floor
Palo Alto, CA 94306-2112
Telephone: (650) 632-4734
Facsimile: (650) 632-4834
Email: mrodgers@cov.com

Attorneys for Defendant Genentech, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of November, 2020, I electronically transmitted the foregoing document to the Clerk of the Court using the CM/ECF System for filing as required in the Court's Practice and Procedure Order (MDL Doc. #6 at ¶ 5).

/s/ James Wesley Scott Pebsworth

James Wesley Scott Pebsworth

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA**

In re: Genentech, Inc., Herceptin
(Trastuzumab) Marketing and Sales
Practices Litigation

MDL Docket No. 16-MD-2700

SHORT FORM COMPLAINT

[Plaintiff Name],
Plaintiff,

This Document Relates to:
Civil Action No.: [Case No.]

v.

Genentech, Inc.,
Defendant.

SHORT FORM COMPLAINT

Pursuant to Case Management Order No. 6 [Dkt. #_____] (“CMO 6”) entered on November [____], 2020 in the proceeding *In re Genentech, Inc., Herceptin (Trastuzumab) Marketing and Sales Practices Litigation*, MDL Case No. 16-MD-2700, each above named Plaintiff files this Short Form Complaint relating to the civil action identified above. This Short Form Complaint is governed by and filed in accordance with CMO 6, which provides *inter alia* that by filing this abbreviated form any Plaintiff (i) may adopt the factual allegations and any or all of the causes of actions alleged against Defendant Genentech, Inc. (“Genentech”) in the Master Complaint [Dkt. #440] filed in 16-MD-2700 on November 12, 2020, and (ii) may assert any other case-specific causes of action or class allegations.

Plaintiff alleges as follows:

1. Plaintiff(s):

- a. Plaintiff [NAME] is a [STATE OF FORMATION] [FORM OR ORGANIZATION] with its principal place of business in [CITY, STATE OF PPB].
- b. Plaintiff [NAME] is a [STATE OF FORMATION] [FORM OR ORGANIZATION] with its principal place of business in [CITY, STATE OF PPB].
- c. Plaintiff [NAME] is a [STATE OF FORMATION] [FORM OR ORGANIZATION] with its principal place of business in [CITY, STATE OF PPB].

2. Jurisdiction: Federal jurisdiction over this case is proper because [STATE BASIS FOR FEDERAL JURISDICTION].

3. Venue: Plaintiff alleges that, pursuant to 28 U.S.C. § 1391, the following District is the proper venue for trial in this civil action: [DESIGNATE FEDERAL DISTRICT].

4. Master Complaint Factual Allegations. Plaintiff adopts and incorporates by reference all factual allegations of the Master Complaint. As alleged in the Master Complaint, Plaintiff purchased the cancer treatment drug Herceptin, which was manufactured and distributed by Genentech. Plaintiff purchased vials of Herceptin labeled as containing 440 milligrams (mg) of medicine (trastuzumab) and suffered damages as a direct result of Genentech's false and misleading representations and warranties and concealments of material facts relating to the contents of so-called 440 mg Herceptin vials.

5. Dates of Purchase: Plaintiff alleges that it purchased vials of Herceptin labeled as containing 440 milligrams of medicine during the period [PURCHASE PERIOD].

6. Master Complaint Claims. Plaintiff further adopts and incorporates by reference the following Claims alleged in the Master Complaint:

☐ Claim I – Fraud

☐ Claim II – Breach of Express Warranty

☐ Claim III – Breach of Implied Warranty

☐ Claim IV – California False Advertising and Unfair Competition Violations

☐ Claim V – Unjust Enrichment

7. Additional Claims. Plaintiff does ☐ , or does not ☐ , allege material facts or claims, or make class action allegations, that are not alleged in the Master Complaint. If any such additional facts or claims, or class action allegations, are made or alleged by this Plaintiff, they are set forth on the attached Plaintiff's Supplement to Master Complaint.

WHEREFORE, Plaintiff prays for relief and judgment as set forth in the Master Complaint and, if applicable, the attached Plaintiffs' Supplement to Master Complaint.

Dated: [DATE]

Respectfully submitted,

/s/_____
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Click or tap here to enter text.

Counsel for Plaintiff Click or tap here to enter text.

CERTIFICATE OF SERVICE

I hereby certify that on this ____th day of _____, 20__, I electronically transmitted the foregoing document to the Clerk of the Court using the ECF System for filing.

/s/_____

**ATTACHMENT TO PLAINTIFF’S SHORT FORM COMPLAINT
IN CIVIL ACTION NO. [INSERT ORIGINAL CASE #]
SUPPLEMENT TO 16-MD-2700 MASTER COMPLAINT**

Each Plaintiff in the above-reference civil action submits this Supplement to the Master Complaint filed in 16-MD-2700, in order to assert additional facts and/or claims in this civil action, as contemplated by Paragraph 5 of the Short Form Complaint [Dkt. #[Insert Docket #] to which this Supplement is attached. The facts and/or claims alleged in this Supplement to the Master Complaint are supplemental to, and not in derogation of, those Master Complaint allegations and claims Plaintiff has expressly adopted (if any) as indicated in the Plaintiff’s Short Form Complaint.

Plaintiff further alleges as follows:

Supplemental Factual and/or Class Action Allegations

[Insert numbered paragraphs if/as applicable.]

Supplemental Claim [#] – [Name of Claim]

[Insert as many supplemental claims as apply, with supporting allegations, and with each supplemental claim in a separate section.]

Supplemental Request for Relief

[Describe any such relief sought in addition to all applicable relief requested in connection with the Master Complaint claims Plaintiff has expressly adopted.]

WHEREFORE, Plaintiff prays for relief and judgment as set forth above and in the Master Complaint.

Dated: [DATE]

Respectfully submitted,

/s/

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Counsel for Plaintiff Click or tap here to enter text.

CERTIFICATE OF SERVICE

I hereby certify that on this ____th day of _____, 20__, I electronically transmitted the foregoing document to the Clerk of the Court using the ECF System for filing.

/s/_____